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August 22, 2011

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

AUG 23 2011
P: 11:11

Re: New England Transrail, LLC d/b/a Wilmington & Woburn
Terminal Railway, Petition for Construction, Acquisition and
Operation Exemption in Wilmington and Woburn, Mass.
FD 34797

230851

Dear Ms. Brown:

Enclosed please find the original and ten copies of the petitioners updated Status Report in compliance with the Board's decision of May 24, 2011 together with a declaration of service. We have been unable to produce a CD containing these materials due to technical difficulties.

Thank you for your attention to this matter.

Very truly yours:


John F. McHugh

Office of Proceedings

AUG 23 2011

Part of
Public Record

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. FD 34797

**NEW ENGLAND TRANSRAIL, LLC, d/b/a
WILMINGTON & WOBURN TERMINAL RAILWAY
PETITION FOR CONSTRUCTION, ACQUISITION, AND OPERATION EXEMPTION
IN WILMINGTON AND WOBURN, MASS.**

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**PETITIONER'S STATUS REPORT
AUGUST, 2011**

On December 5, 2005, New England Transrail, LLC ("NET") filed its Petition for an Exemption from the application requirements of 49 U.S.C. § 10901 ("Petition") to acquire, construct, and operate as a rail carrier on tracks and land owned by Olin Chemical Corporation ("Olin") and located in Wilmington and Woburn, Massachusetts. In a decision dated July 10, 2007 ("July 2007 Decision"), the Board found that, if authorized, NET would become a rail carrier subject to the Board's jurisdiction. When initially filed the petition included the construction and operation of a facility to transload solid waste from highway vehicles to rail vehicles. The Board also noted that the Environmental Protection Agency ("EPA") and the Board itself would need to complete environmental reviews prior to addressing whether to authorize NET's proposal. The solid waste facility is no longer proposed for construction or operation as a part of the petition.

Subsequent to the July 2007 Decision, the Commonwealth of Massachusetts ("Massachusetts") filed a petition for reconsideration, to which NET filed a reply. In August,

2007, NET filed supplemental information regarding its proposal, to which Massachusetts and others replied. In October 2008, before the issues raised on reconsideration could be decided, Congress enacted the Clean Railroads Act of 2008, Pub. L. No. 110-432, 122 Stat. 4848 (codified at 49 U.S.C. § § 10501(c)(2), 10908-10910) ("CRA"). Because the CRA changed the Board's jurisdiction over the regulation of solid waste rail transfer facilities, in a decision dated July 23, 2010 ("July 1010 Decision"), the Board directed NET to file a status report. NET filed a Status Report on August 23, 2010 ("2010 Status Report"), a copy of which is attached hereto as Exhibit A.

In a decision dated May 24, 2011 ("May 2011 Decision"), the Board directed NET to file an updated status report no later than August 23, 2011.

In response to the May 2011 Decision, NET hereby informs the Board that it intends to pursue its Petition for Exemption. NET respectfully requests that the Board complete its environmental review and approve NET's Petition construct rail lines and facilities consistent with the development of a general transloading facility handling multiple commodities, as described in Sections 2 and 3 below.

Olin is responsible for an environmental cleanup of the proposed site of the facility, and has entered into a written settlement agreement with the EPA. Work plans and reports submitted to the EPA can be retrieved from the following website:

http://yosemite.epa.gov/r1/npl_pad.nssf/701b6886f189eeae85256bd20014e93d/1927672eea2d788b852571060051d142!OpenDocument. Olin has provided NET with a report dated August 11, 2011 on the status of the clean up, which is attached hereto as Exhibit B. A summary of Olin's representations follows:

In June 2007, Olin and the EPA executed an Administration Settlement Agreement and Order ("EPA Order") to conduct a Remedial Investigation and Feasibility Study of the Olin Chemical Superfund Site. The EPA Order included a Statement of Work ("SOW"), which required a Focused Remedial Investigation Report (submitted to EPA October 2007), Remedial Investigation and Feasibility Study Work Plan ("RI/FS Work Plan," submitted to EPA August 2009), and an Interim Response Steps Work Plan (status report submitted to EPA July 2010). The RI/FS Work Plan divides the site into three Operable Units; the property, surface water and sediment, and groundwater. The RI/FS Work Plan requires the evaluation of property soil, sediment, surface water, and vapor; off-property surface water and sediment; and all on- and off-property ground water and vapor.

Olin chemical met with the EPA and the Massachusetts Department of Environmental Protection ("MADEP") on June 29, 2010, to present the results of property surface and subsurface soil testing followed by Semi Annual Status Report No. 8 was submitted in July, 2010. A qualitative review of the validated data collected from the property determined that the constituents and concentrations detected are similar to previous sampling data and that the prior Risk Assessment remains valid.

On Operable Unit 1 ("OU-1"), a portion of which will be developed and occupied by NET, a total of 526 surface soil samples and 890 subsurface soil samples have been collected, and analytical results have been validated and provided to EPA. In addition, an Addendum to close minor data gaps was submitted to EPA in July, 2010. Based on a qualitative review of the validated data collected from OU-1 in 2011, the constituents and concentrations detected are similar to previous sampling data and compliments the Risk Assessment previously conducted

for the NET development. Based on quarterly inspections, the temporary cap on the slurry wall is still serviceable, and a contractor has been selected to perform testing on the slurry wall to confirm integrity. The Plant B pump and treat system ("Plant B Treatment Facility") continues to operate effectively.

The current human health risk assessment indicated that the OU-1 site is suitable for redevelopment. There are two small discrete locations within the area available for future development where surface soils have been impacted with polychlorinated biphenyls (PCBs) at concentrations above risk goals. These discrete areas will be remedied easily.

An ecological risk assessment was conducted for the OU-1 site. There were no findings that would impair future redevelopment. The NET development of building, paving and covering of the site would further reduce risk to site workers, and the installation of a paved area over the slurry wall area would be beneficial to further reduce infiltration. An Activity and Use Limitation will be placed on the property to prohibit the use of groundwater. Should the Plant B Treatment Facility need to remain operational, it could remain in operation with the NET development in place and is 'carved' out of the NET development.

Operable Unit 2 and Operable Unit 3 are the two other areas covered by the Order. The NET development would not impact either of these areas or interfere with implementation of remedies for them.

Olin expects to submit a Preliminary Remedial Investigation Report by the end of the third quarter of 2011 on OU-1.

NET has expressly committed that it will comply with all substantive health and safety laws, including regulations of the Commonwealth of Massachusetts and federal environmental laws, such as the Clean Air Act. Petition at 15 Jones V.S. at ¶ 16. As NET has stated in previous filings in this matter, the Board could make NET's compliance with all applicable health and safety laws a condition of its exemption.

NET requests that the Board complete its environmental review of the site as soon as possible and approve NET's proposal.

1. NET Plans to Transload Multiple Commodities at the Proposed Facility

NET plans to develop a general transloading facility for multiple commodities. The commodities to be transloaded at NET's proposed facility will depend on the demands of the markets at that time. Based on prior solicitations, these commodities may include biofuels, dry-goods, corn syrup, salt, sand, gravel, soil, lumber, plastics, steel, paper, woodchips, clay, brick, and, pursuant to the regulatory requirements of the U.S. Department of Transportation, some types of hazardous materials. They would not include solid waste.

NET Reserves the Right to Seek a Land-Use-Exemption Permit to Operate a Solid Waste Rail Transfer Facility in Accordance with the CRA in the Future.

NET plans to develop the site as a general rail transloading facility upon receiving its license and approval from the Board. Should NET decide to develop and operate a solid waste rail transfer facility in the future, that facility would be separate, distinct, and in addition to NET's other transloading facilities. To the extent that NET determines that it is feasible to transload solid waste, that portion of NET's activity at the site would be deemed a solid waste rail transfer

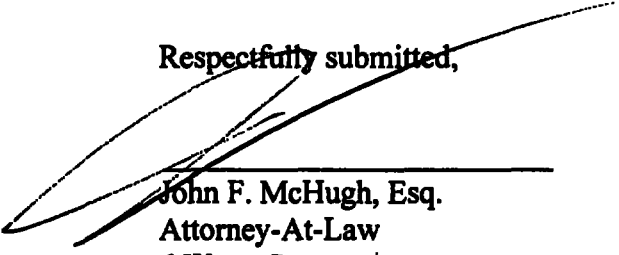
facility under the CRA, 49 U.S.C. § 10908, and in connection therewith NET would comply fully with the requirements of the CRA. In accordance with the CRA, NET reserves the right to petition the Board for a land-use-exemption permit should the need arise.

Conclusion

For the reasons set forth in the Petition, and for the additional reasons set forth above, NET requests that the Board complete its environmental review and grant the Petition for an Exemption.

The undersigned is the attorney for the petitioner has reviewed the material submitted herewith and is authorized to submit this report.

Respectfully submitted,



John F. McHugh, Esq.
Attorney-At-Law
6 Water Street
Suite 401
New York, NY 10004

Attorney for New England Transrail, LLC
Date: August 22, 2011

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. FD 34797

**NEW ENGLAND TRANSRAIL, LLC, d/b/a
WILMINGTON & WOBURN TERMINAL RAILWAY
PETITION FOR CONSTRUCTION, ACQUISITION, AND OPERATION EXEMPTION
IN WILMINGTON AND WOBURN, MASS.**

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Sylvia Cruz declares under penalty of perjury that on this 22nd day of August 2011 she mailed a copy of this Status Report to

Party Of Record: Armbrust, Steven
Csx Transportation Inc.
500 Water Street (J150)
Jacksonville, FL 32202

Party Of Record: Bary, Kathleen M
Concerned Citizens Network
14 Powder House Circle
Wilmington, MA 01887

Party Of Record: Berry, J. Patrick
Baker Botts Llp
1299 Pennsylvania Avenue, Nw
Washington, DC 20004

Party Of Record: Cane, Patrick John
Mercer County Improvement Authority
640 S Broad St
Trenton, NJ 08650

Party Of Record: Carrington, John W.
Hiram Grand Lodge A.F. & A.M., Inc.
98 Talbot Avenue
Dorchester, MA 02124

Party Of Record: Cianciarulo, Robert
United States Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Party Of Record: Cleaver, Susan
109 Coleman Road
Goshen, NY 10924

Party Of Record: Colman, James
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One Winter Street
Boston, MA 02108

Party Of Record: Conway, Tim
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One Congress Street, Suite 1100
Boston, MA 02114-2023

Party Of Record: D'agostino, Nicholas C
Jacques Whitford Company, Inc.
24 Albion Road Suite 220
Lincoln, RI 02865

Party Of Record: Demasi, Frank S.
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Wellesley, MA 02482

Party Of Record: Derensis, Paul R.
Deutsch Williams Derensis & Holland, P.C.
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Party Of Record: Deutsch, Daniel R.
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Washington, DC 20006-3939

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Idaho Department Of Environmental Quality Solid Waste Program
Coordinator
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Boise, ID 83706

Party Of Record: Farrell, Thomas E.
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Party Of Record: Fiehrer, Dr. Daniel R.
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Helena, MT 59624

Party Of Record: Fischbein, Bill
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Party Of Record: Havern, Robert A
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Woburn Business Association
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Wouburn, MA 01888

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Party Of Record: Raymond, Linda
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Party Of Record: Warchot, Louis P
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Party Of Record: Wilkerson, Dianne
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State House
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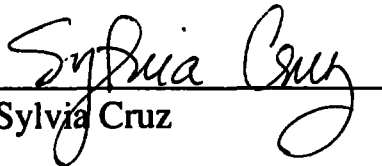
Party Of Record: Williams, Arthur
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Boston, MA 02136-9998

Party Of Record: Wyche, Nyjah
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Boston, MA 02125

Party Of Record: Zucker, Audrey
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Member Of Congress: Latourette, Honorable Steven C.
Chairman, Subcmte. On Railroads; Committee On Transportation &
Infrastructure
U.S. House Of Representatives
Washington, DC 20515

Dated, New York, N.Y.
August 22, 2011


Sylvia Cruz